

(212) 867-6800

Steven Horowitz

09/459,735
10/259,104

Welch, Gary

From: Prebilib, Paul
Sent: Saturday, June 17, 2006 7:45 AM
To: Welch, Gary
Subject: RE: Allowed Reissue 10259104

SB 50

patent attorney@aol.com

Gary,

Sorry it took a few days to get back to you.

- (1). I believe the checklist is not mandatory so you need not provide one. It was sent to you as an aid only.
- (2). I've ordered a litigation search from EIC 3700 because the record is not clear in this regard and needs to be clarified.
- (3). I am not sure what I saw before in the drawings that made me think they were illegible on the bottom edge. Perhaps I was thinking of another case. Anyway, the drawings look acceptable now.
- (4). I still think that "or the like" renders the claim language unclear since it is a method, but I will defer to your judgment on this. Please reconsider having this language deleted or at least asking to have it done by the Applicants. It may be something OPLA questions when they do their review prior to issue.
- (5). The other items appear fine. Thanks for your cooperation.

Thanks,

Paul Prebilib
SPRE-Detailee
TC 3700

Central fax
(571) 273-8300

fax the declaration
and amendment

-----Original Message-----

From: Welch, Gary
Sent: Wednesday, June 14, 2006 8:24 AM
To: Prebilib, Paul
Subject: RE: Allowed Reissue 10259104

Paul,

Please see the attachment. I have highlighted in "red" my thoughts and proposed actions related to this reissue and how I am preparing to go about it. I have agreed to most of the suggestions and have not agreed to a couple. Before I go to the attorney, please review so that we are on the same page because since there are changes being required by the applicant, I do not want to be caught in the middle of what the SPRE shop requires and what any differences of opinion by the applicant.

<< File: 10259104.reissuecorrectionsnote.doc >>

Thank you,

Gary Welch

-----Original Message-----

From: Prebilib, Paul
Sent: Tuesday, June 13, 2006 4:43 PM
To: Welch, Gary
Cc: Sholl, Linda
Subject: RE: Allowed Reissue 10259104

I still have not heard back from you. It would be great if we could move forward on this before the quarter ends while I am still on this detail. I have attached a copy of the reissue corrections note as a reminder. Please have at least the allowance count removed by then if the problems cannot be fixed prior to the end of the quarter.

Thanks,

Paul Prebilic
SPRE Detailee
TC 3700

<< File: 10259104.reissuecorrectionsnote.doc >>

-----Original Message-----

From: Prebilic, Paul
Sent: Tuesday, May 16, 2006 5:06 PM
To: Welch, Gary
Subject: Allowed Reissue 10259104

Gary,

I have reviewed this allowed reissue case as my duty as a detailee with the SPRE shop, and a few problems need correcting. Since this case requires corrections beyond the scope of my mandate, I have to return it to you for correction.

I will be dropping off the original patent file, the red action folder, and explanation papers to your office today.

The SPRE shop has quite a backlog of allowed reissue applications that have not been mailed, so unfortunately, you have not seen this case for about 5 months.

Please try to get these things corrected within 2 weeks. Once completed, please drop the cases off on my desk or, if you'd prefer, I will pick them up from your office.

I have tried to give you a clear description of the corrections that you can follow so that the case will be in condition to be forwarded from TC 3700 to OPLA for a final review. I suggest that you contact the Applicant and have them file the corrections as you wait for them to be entered and scanned. In this way, you will avoid having to have the allowance withdrawn. If the Applicant is unwilling to make the corrections without an action, you will have to have the allowance count withdrawn before you mail out your action.

An electronic version of the paper list attached to the file papers I gave you is attached here --

<< File: 10259104.reissuecorrectionsnote.doc >>

Electronic versions of the Reissue Checklist and Reissue Guide are attached here --

<< File: Reissue Checklist.doc >> << File: Reissue Guide.doc >>

If you have any questions, please contact me or one of the SPRE's, Linda Sholl or Jessica Harrison.

Thanks,
Paul Prebilic
SPRE-Detailee
TC 3700

In the Claims

1. (currently amended) A multipositional apparatus for hanging articles of clothing, accessories and the like, comprising:

a flexible main body comprising a series of intertwined rigid links including a first end link, a series of intermediate links and a second end link, at least one link in the series of intermediate links having no hook projecting therefrom,

a plurality of hooks [soldered to and] projecting from the links, including at least several intermediate hooks that project perpendicularly from a segment of the series of intermediate links and including an end hook projecting from the first end link,

said hooks containing a straight portion and a curved portion, said curved portion shaped so as to receive articles or to be hung on a projecting member,

the straight portion of said end hook aligned collinearly with an axis of a segment of the series of intermediate links nearest said end hook,

the apparatus being adjustable in length and shape and configurable so that more than one hook can be selected to hang the apparatus and still allow most of a remainder of the plurality of hooks to face upward and thereby allow articles to be hung on the curved portion of said remainder of the plurality of hooks.

2. (previously amended) The apparatus of claim 1, wherein the links and the hooks are made of metal and wherein the plurality of hooks are soldered to the links,

3. (canceled)

4. (canceled)

5. (canceled)

6. (canceled)

7. (new) A method of hanging articles of clothing, accessories and the like, comprising:
providing a multipositional apparatus, said multipositional apparatus comprising
a flexible main body comprising a series of intertwined rigid links including a first end
link, a series of intermediate links and a second end link,
a plurality of hooks projecting from the links, including at least several intermediate
hooks that project perpendicularly from a segment of the series of intermediate links and
including an end hook projecting from the first end link,
said hooks containing a straight portion and a curved portion, said curved portion shaped
so as to receive articles or to be hung on a projecting member,
the straight portion of said end hook aligned substantially collinearly with an axis of a
segment of the series of intermediate links nearest said end hook,
the apparatus being adjustable in length and shape and configurable so that more than one
hook can be selected to hang the apparatus and still allow most of a remainder of the plurality of
hooks to face upward and thereby allow articles to be hung on the curved portion of said
remainder of the plurality of hooks.

8. (new) The method of claim 7, wherein providing the apparatus involves providing an apparatus wherein the links and the hooks are made of metal and wherein the plurality of hooks are soldered to the links.

9. (new) The method of claim 7, including hanging articles of clothing, accessories and the like on the apparatus.

10. (new) The method of claim 9, wherein providing the apparatus involves providing an apparatus wherein the links and the hooks are made of metal and wherein the plurality of hooks are soldered to the links.

Reissue Application: 10/259,104
May 16, 2006

Gary,

This reissue case has been reviewed by the SPRE shop, but it is not yet ready for issue for the following reasons:

I could not find any Reissue Checklist with the application papers. I have sent an electronic version to you via e-mail for your convenience. Please note that the first Office Action was done on 9 June 2003. This Reissue was first examined by another primary examiner who has since left the Office. I have given full faith and credit on the action(s) of the previous examiner and therefore I assume that items 1-19 of the checklist were completed by the previous examiner. Additionally, since we are at the point of allowance, it is believed that the SPRE shop would not have let items 1-19 of the checklist go undone. Since I inherited this application "after" the first action, I will not initial off on items 1-19. I will take responsibility for items 20-21 of the checklist.

Please return all the papers and files to me once you have completed list hereinbelow. You will have to contact the Applicants to get corrections made. However, some corrections can be made by Examiner's amendment in accordance with 37 CFR 1.121(g); see MPEP 1455.

(1) Claims

(a) Upon review of the most recent set of claims (filed May 10, 2004), it was determined that the reissue claim format used did not comply with 37 CFR 1.173(b)(2); see MPEP 1453. The problems I found are as follows:

✓ (i) Claims 7 to 10 need to be underlined in their entirety because they are new claims with respect to the original patent claims.

✓ I will ensure that all new claims be underlined in their entirety.

(ii) In claim 2, on line 2, the period should **not** be underlined because it was part of the original claims.

I will ensure that the period is not underlined in claim 2, line 2.

✓ (b) Upon review of claims 7 and 8, it appears that the essential step of hanging the articles is missing; see MPEP sections 2173.05 (q) and 2172.01 as well as form paragraph 7-34-12. Since the preamble states that the invention is drawn to a "method of hanging articles of clothing, accessories and the like", the body of the claim should include a step of hanging articles in order to perform the method that the preamble and the claim is directed.

I will request that claim 9 be deleted and inserted into the language of claim 7. Claim 10 should be deleted since it is a duplicate of claim 8..

✓ (c) Claims 9 and 10 appear to be indefinite because the terminology "and the like" [see claim 9, lines 1-2] renders the scope unclear; see MPEP 2173.05(b)(F), second paragraph.

I do not believe the recitation "or the like" renders the claims 9 and 10 indefinite. As stated in MPEP 2173.05(b), "acceptability of the claim language depends on whether one of ordinary skill in the art

would understand what is claimed, in light of the specification". Since I am one of ordinary skill in the art and since the specification is clear in listing items such as hats, ties, belts, shoes, bras, etc. as articles intended to be hung and supported by the claimed device, the phrase "or the like" is in fact definite.

The above corrections, being made after the most recent declaration was filed, will require the Applicant to submit a "catch-up" supplemental oath or declaration prior to allowance; see the Reissue Checklist, page 6, item 21 (h).

I will request a "catch-up" supplemental oath or declaration.

(2) Oath/Declaration

Any reissue error correction made after the most recent declaration was filed will require the Applicant to submit a "catch-up" supplemental oath or declaration prior to allowance; see the Reissue Checklist, page 6, item 21 (h). If more than just grammatical errors have been or will be corrected since September 29, 2005, any other reissue error corrected which is not covered by an oath or declaration, i.e. any 35 USC 251 error corrected after the filing of all oaths and declarations currently in the reissue application, applicants MUST submit a "catch-up" supplemental oath or declaration prior to allowance stating *"Every error in the patent which was corrected in the present reissue application, and which is not covered by the prior oath(s) and /or declaration(s) submitted in this application, arose without any deceptive intention on the part of the applicant."* (37CFR 1.175(b)(1), or language equivalent thereto. See MPEP 1444 for handling supplemental oaths/declarations.

(3) Litigation Search

The file only shows that a litigation search was ordered by Andy Kashnikow, but the results are not shown; see the document dated May 7, 2003. Therefore, it is not clear, from the record, whether litigation is occurring in this case. Therefore, a litigation search needs to be ordered through EIC 3700.

This search is required by item 7 of the checklist which must have been done before the completion of the first Office Action. Therefore, since we are at the point of allowance, I am putting full faith and credit to the previous examiner and SPRE in ensuring that a litigation search was conducted and that there were no litigation found.

(4) Drawings

Page 1 of the drawings does not comply with Rule 84 because the bottom edge is illegible. Clean copies of the patent drawings should be provided by the Applicant so that they can be scanned as replacement copies to those originally filed.

The bottom edge of page 1 of the drawings appear legible and it does not appear that a new clean copy is required.

(5) Issue Classification Sheet

(a) On the Issue Classification Sheet in the red folder, original claims 3 to 6, even though they are cancelled, need to be numbered as claims 3 to 6, respectively. The total number of allowed claims is 6 as

properly indicated; see the Reissue Checklist, item 21(d). Claims 7 to 10 should be numbered as claims 7 to 10, respectively.

(b) On the Issue Classification Sheet, a cross-reference needs be made to 223/Dig. 2 since that was where a cross-reference was provided for in the original; see the Reissue Checklist, item 21(f).

Items (a) and (b) will be corrected

Thank you for your prompt attention to this matter. Because reissue applications are handled with special dispatch in accordance with MPEP 1442, I would appreciate your resolving the above issues and returning the case to my office no later than 5/31/2006.

If you have any questions or would like to discuss this matter further, feel free to contact me.

Thank you,

Paul Prebilic
Detailee
TC 3700 SPRE Shop
RAN 6C03
571-272-4758

Reissue Application: 10/259,104
May 16, 2006

Gary,

This reissue case has been reviewed by the SPRE shop, but it is not yet ready for issue for the following reasons:

I could not find any Reissue Checklist with the application papers. I have sent an electronic version to you via e-mail for your convenience.

Please return all the papers and files to me once you have completed list hereinbelow. You will have to contact the Applicants to get corrections made. However, some corrections can be made by Examiner's amendment in accordance with 37 CFR 1.121(g); see MPEP 1455.

(1) Claims

(a) Upon review of the most recent set of claims (filed May 10, 2004), it was determined that the reissue claim format used did not comply with 37 CFR 1.173(b)(2); see MPEP 1453. The problems I found are as follows:

✓ (i) Claims 7 to 10 need to be underlined in their entirety because they are new claims with respect to the original patent claims.

✓ (ii) In claim 2, on line 2, the period should not be underlined because it was part of the original claims.

✓ (b) Upon review of claims 7 and 8, it appears that the essential step of hanging the articles is missing; see MPEP sections 2173.05 (q) and 2172.01 as well as form paragraph 7-34-12. Since the preamble states that the invention is drawn to a "method of hanging articles of clothing, accessories and the like", the body of the claim should include a step of hanging articles in order to perform the method that the preamble and the claim is directed.

No (c) Claims 9 and 10 appear to be indefinite because the terminology "and the like" [see claim 9, lines 1-2] renders the scope unclear; see MPEP 2173.05(b)(F), second paragraph.

✓ The above corrections, being made after the most recent declaration was filed, will require the Applicant to submit a "catch-up" supplemental oath or declaration prior to allowance; see the Reissue Checklist, page 6, item 21 (h).

(2) Oath/Declaration

Any reissue error correction made after the most recent declaration was filed will require the Applicant to submit a "catch-up" supplemental oath or declaration prior to allowance; see the Reissue Checklist, page 6, item 21 (h). If more than just grammatical errors have been or will be corrected since September 29, 2005, any other reissue error corrected which is not covered by an oath or declaration, i.e. any 35 USC 251 error corrected after the filing of all oaths and declarations currently in the reissue application, applicants MUST submit a "catch-up" supplemental oath or declaration prior to allowance stating *"Every error in the patent which was corrected in the present reissue application, and which is not covered by the prior oath(s) and /or declaration(s) submitted in this application, arose without any deceptive intention on the part of the applicant."* (37CFR 1.175(b)(1), or language equivalent thereto. See MPEP 1444 for handling supplemental oaths/declarations.

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(4) Drawings

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(5) Issue Classification Sheet

(a) On the Issue Classification Sheet in the red folder, original claims 3 to 6, even though they are cancelled, need to be numbered as claims 3 to 6, respectively. The total number of allowed claims is 6 as properly indicated; see the Reissue Checklist, item 21(d). Claims 7 to 10 should be numbered as claims 7 to 10, respectively.

(b) On the Issue Classification Sheet, a cross-reference needs to be made to 223/Dig. 2 since that was where a cross-reference was provided for in the original; see the Reissue Checklist, item 21(f).

Thank you for your prompt attention to this matter. Because reissue applications are handled with special dispatch in accordance with MPEP 1442, I would appreciate your resolving the above issues and returning the case to my office no later than 5/31/2006.

If you have any questions or would like to discuss this matter further, feel free to contact me.

Thank you,

Paul Prebilic
Detailee
TC 3700 SPRE Shop
RAN 6C03
571-272-4758



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/259,104	09/26/2002	Elsa Dunplet		5793

7590 06/30/2005
Steven Horowitz
Counselor At Law
295 Madison Avenue, Suite 700
New York, NY 10017

EXAMINER

NERBUN, PETER P

ART UNIT	PAPER NUMBER
----------	--------------

3765

DATE MAILED: 06/30/2005

6/9/2003 1ST O.A

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/259,104	Applicant(s) DUNPLET, ELSA	
	Examiner Peter P. Nerbun	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

The amendment filed on February 2, 2005 does not fully comply with 37 CFR 1.173. The changes that were previously made to original claim 1 by the preliminary amendment have not been carried through to this latest version. That is, the limitation "soldered to and", which appears in the patented claim but was deleted by the preliminary amendment must appear in brackets in the latest version. Further since applicant now wishes to cancel claims 3-6, and has chosen to present them in their entirety, these claims must be enclosed in brackets to show their cancellation, and the material previously added to them must not appear at all and any material that was previously added must be reinserted.

It does not appear that the patent has been assigned. MPEP 1410.01 states that where no assignee exists, applicant should affirmatively state that fact. This can be done by simply checking the 'NO' box of item 7 of Form PTO/SB/50 (which form may be signed by the inventors, or by a registered practitioner).

In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed. On November 10, 2003 a corrected declaration was filed, which declaration, at that time, complied with all requirements. However, since then an amendment was filed (on February 2, 2005) and an examiner's amendment was agreed to, which papers correct additional "errors". Thus a supplemental declaration is required that includes the averment that all errors being corrected in the instant application, and which are not covered by a prior declaration, arose without deceptive intent. Further applicant should amend claims 1 and 15 and insert new claims 7-10, as agreed to in the telephone

Art Unit: 3765

interview with Mr. Steven Horowitz on April 14, 2005. This amendment should be presented together with the aforementioned supplemental reissue oath/declaration required under 35 CFR 1.75(b)(1) as described in this paragraph.

Claims 1-2 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter P. Nerbun whose telephone number is 571-272-4992. The examiner can normally be reached on M-F (1st Week) M-Th (2d Week).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on 571-272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

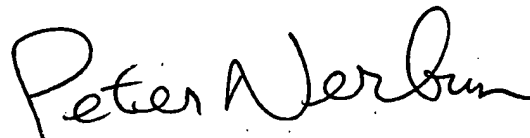
Application/Control Number: 10/259,104

Page 4

Art Unit: 3765

Business Center (EBC) at 866-217-9197 (toll-free).

Peter Nerbun
June 21, 2005

A handwritten signature in black ink that reads "Peter Nerbun". The signature is written in a cursive style with a large, looped "P" and a trailing flourish.

Peter Nerbun
Primary Examiner